

the instant case disclose that the defendant has complied with the conditions set forth in subsection (1) and is therefore exempt from the penalties provided for in the Act. Our conclusion is substantiated by a consideration of the purpose of the exemption found in subsection (1). It is clear that it was designed to protect innocent dealers, such as the defendant, who receive goods shipped in interstate commerce. *U. S. vs. Parfait Powder Puff Company*, 136 F. 2d 1008. Thus, in Senate Report No. 493, 73d Congress, 2d Session, accompanying S. 2800, the Senate Committee reported as follows:

The existing law provides for a guaranty whereby a dealer who buys on faith may be protected from liability under the law. This provision has safeguarded innocent dealers and has been extremely useful in fixing responsibility on guilty shippers. It would be continued in effect by paragraph (e). The bill affords in this paragraph further protection to the innocent dealer who distributes goods he has received from interstate sources. If he has failed to secure a guaranty he can escape penalties by furnishing the records in interstate shipment, thus allowing the prosecution to lie solely against the guilty shipper.

It is clear, we think, that the Act was intended to furnish protection to innocent receivers of goods shipped to them in interstate commerce in violation of the Act. The defendant in the instant case is such an innocent dealer and should be afforded the protection. Further, the defendant is exempt from liability under the Act for the record discloses she cooperated with the Department as required by subsection (1). In April, 1947, Mr. Bell, an Inspector of the Department, came to the defendant's place of business and took some of the Protecto away with him for examination and the defendant, at his request, informed him of the name and address of the Laboratory from which she purchased it and supplied him with all data in connection therewith which he requested.

"Accordingly, a verdict and judgment finding the defendant, Bess J. Levine, an individual, trading as Miracle Food Company, not guilty will be entered."

2420. Misbranding of Johnson's Rheumatic Tonic and Blood Purifier. *U. S. v. Nathan G. Johnson (Johnson Drug & Chemical Co.).* Plea of guilty. Fine of \$50 and sentence of 6 months in prison; prison sentence suspended and defendant placed on probation for 3 years. (F. D. C. No. 24242. Sample No. 73534-H.)

INFORMATION FILED: April 2, 1948, Northern District of Alabama, against Nathan G. Johnson, trading as the Johnson Drug & Chemical Co., Birmingham, Ala.

ALLEGED SHIPMENT: On or about August 1, 1947, from the State of Alabama into the State of Ohio.

PRODUCT: Analyses disclosed that the product was a turbid brown liquid containing water, isopropyl alcohol, camphor, a resin, and a small amount of nitrite.

NATURE OF CHARGE: Misbranding, Section 502 (a), certain statements on the label of the article were false and misleading, since they represented and suggested that the article would be efficacious in the cure, mitigation, and treatment of rheumatism, paralysis, fits, catarrh of the head, asthma, blood poison, colds, cramps in the stomach, colic, dyspepsia, deafness, headache, palpitation of the heart, palsy or nervous trouble, piles, tumors, indigestion, female complaint, general poison, kidney troubles, spots under eyes, diarrhea, weak nerves, old sores, ulcers, stiff neck, liver complaint, and tonsillitis; that the article would be effective as a rheumatic tonic and blood purifier; and that it contained 50 percent of alcohol. The article contained less than 50 percent of alcohol, and it would not be efficacious for the purposes represented.

Further misbranding, Section 502 (b) (2), the bottles containing the articles bore no label containing a statement of the quantity of the contents in terms of weight or measure.

DISPOSITION: May 21, 1948. A plea of guilty having been entered, the court imposed a fine of \$50 and sentenced the defendant to serve 6 months in prison. The prison sentence was suspended and the defendant was placed on probation for 3 years.

2421. Misbranding of Sa-Nos. *U. S. v. Emil Wolfram (Wolfram Co.).* Plea of guilty. Defendant fined \$300, given sentence of 6 months in jail, which was suspended, and placed on probation for 6 months. (F. D. C. No. 24259. Sample Nos. 24408-K, 25015-K.)

INFORMATION FILED: June 4, 1948, Southern District of Ohio, against Emil Wolfram, trading as the Wolfram Co., Columbus, Ohio.

ALLEGED SHIPMENT: On or about April 7 and July 26, 1947, from the State of Ohio into the States of Iowa and Minnesota.